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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
10 AT TACOMA

11 DOMINGO GERMAN MACAVILCA,

12 Plaintiff,

13 v.

14 WARDEN WIGGEN, *et al.*,

15 Defendants.

No. C08-5637 FDB

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

16 This matter comes before the Court on the recommendation of the Magistrate Judge that  
17 Defendant Clark's motion to dismiss Plaintiff's civil rights action be granted. As detailed in the  
18 Report and Recommendation, Plaintiff has been given the opportunity to cure the deficiencies in  
19 his complaint. Nonetheless, Plaintiff has failed to state a claim a cognizable claim against  
20 Defendant Clark.  
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22 The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen  
23 L. Strombom, and the remaining record, does hereby find and **ORDER:**

- 24 1) The Court adopts the Report and Recommendation;  
25 2) Defendant Clark's motion to dismiss [Dkt. 20] is **GRANTED** and Plaintiff's  
26 Amended Complaint [Dkt. 8] is **DISMISSED as to Defendant A. Neil Clark.**

3) The Clerk is directed to send copies of this Order to Plaintiff, counsel for Defendants and to the Hon. Karen L. Strombom.

**DATED** this 16<sup>th</sup> day of November, 2009.



FRANKLIN D. BURGESS  
UNITED STATES DISTRICT JUDGE